

CHAPTER 8
CRIMINAL JUSTICE INFORMATION
[Prior to 4/20/88, see Public Safety Department[680] Ch 8]

661—8.1 to 8.100 Reserved.

DIVISION I
IOWA ON-LINE WARRANTS AND ARTICLES SYSTEM
[Prior to 8/16/95, see 661—8.1 to 8.101]

661—8.101(80,692) Iowa on-line warrants and articles (IOWA) criminal justice information system. The Iowa on-line warrants and articles (IOWA) criminal justice information system is administered by the division of administrative services, field services bureau. The IOWA system, created pursuant to Iowa Code paragraph 80.9(2) “d” and Iowa Code section 692.14, provides criminal justice agency access to traffic record and criminal justice databases through a dedicated telecommunications network. To be eligible for access to the IOWA system, an agency must be a criminal justice agency at the federal, state, or local level within Iowa, or an agency providing services to criminal justice agencies in Iowa.

661—8.102(80,692) Information available through the IOWA system. The IOWA system provides access to databases from various state agencies within Iowa, from the Federal Bureau of Investigation’s National Crime Information Center (NCIC), and from the motor vehicle departments of other states nationally through the National Law Enforcement Telecommunications System (NLETS). Information on an international basis is also provided by NCIC and NLETS through interfaces to Canadian Police Information Centre and to INTERPOL. The NLETS system also provides administrative message traffic between Iowa criminal justice agencies and criminal justice agencies throughout the United States.

The IOWA system allows criminal justice agencies to:

1. Access nationwide computerized banks of information such as wanted, missing, and unidentified persons; stolen vehicles; stolen articles; stolen boats; stolen guns and stolen securities.
2. Access driver license and motor vehicle information in-state as well as out-of-state.
3. Exchange criminal history information on a national basis.
4. Communicate by use of administrative messages with other criminal justice agencies worldwide.

661—8.103(80) Human immunodeficiency virus-related information. An agency may enter human immunodeficiency virus-related (HIV) information into a wanted or missing person file of the IOWA system and the National Crime Information Center operated by the Federal Bureau of Investigation. HIV information shall be kept confidential and may be communicated only in accordance with this rule.

8.103(1) HIV information on an individual entered into the IOWA system or the National Crime Information Center operated by the Federal Bureau of Investigation shall be made available to terminal operators for the purpose of informing individuals who are authorized access pursuant to this rule.

8.103(2) HIV information may be communicated to:

- a. Employees and supervisors of employees of a law enforcement agency who have, or are expected to have, direct physical control of an individual reported to be HIV positive.
- b. Employees and supervisors of employees subject to the jurisdictional supervision of the Iowa department of corrections who have, or are expected to have, direct physical supervision of an individual reported to be HIV positive.

c. Employees and supervisors of employees of secure facilities for juveniles subject to the jurisdiction of the Iowa department of human services who have, or are expected to have, direct physical supervision of an individual reported to be HIV positive.

d. Employees and supervisors of employees of city and county jails who have, or are expected to have, direct physical supervision of an individual reported to be HIV positive.

8.103(3) HIV information shall not be transmitted over any law enforcement radio broadcasting system, cellular telephone system, radio telephone system, or any other radio-based communications system. This provision shall not apply to the transmission of HIV information in data form to or from mobile digital terminals or mobile digital computers authorized access to the IOWA system and operated by a law enforcement officer or certified IOWA system operator in the performance of official duties.

8.103(4) Individuals who receive HIV information pursuant to this rule shall use the information solely for the purpose of the protection of those individuals having or expected to have direct contact with individuals reported to be HIV positive, and for the prevention of the spread of the HIV virus. Information shall be provided only to individuals and their supervisors who have direct physical contact with persons reported to have the HIV virus. Except as provided in subrule 8.103(2), information obtained pursuant to this rule shall not be communicated to any person not employed by the agency employing the person providing it or used outside the agency for any purpose.

8.103(5) Individuals who are authorized to receive HIV information pursuant to this rule shall receive training developed and established by the commissioner of public safety, in cooperation with the department of corrections and the department of public health, regarding the confidentiality standards applicable to HIV information received from the IOWA system or the National Crime Information Center.

661—8.104(80,692) IOWA system security. IOWA system terminal access shall be available to criminal justice agencies as defined by Iowa Code section 692.1(7). Prior to being permitted terminal access to the IOWA system, a criminal justice agency shall meet the following criteria:

8.104(1) All terminals shall be located within the facilities or vehicles of authorized agencies where appropriate physical security can be maintained.

8.104(2) The immediate terminal areas shall be restricted to prevent access by unauthorized individuals.

8.104(3) All persons accessing NCIC and the criminal history files shall have been authorized to operate the terminal by the criminal justice agency administrator, been approved by the department of public safety, received the required training and achieved proficiency certification by the department of public safety.

Agencies shall complete a background investigation on all applicants for positions with access to NCIC and criminal history files. Agencies shall notify the department of public safety of the completion of the required background investigation. The background investigation shall be done to ensure the following:

- a. That the applicant is 18 years of age or older at the time of appointment to the position.
- b. That the applicant is not addicted to drugs or alcohol.
- c. That the applicant is of good moral character and has not been convicted of a serious crime.
- d. Agencies shall submit two fingerprint cards on all applicants to the Iowa division of criminal investigation. One card will be used to check for any Iowa criminal history and the second card will be forwarded to the FBI for a national search of criminal history records.

8.104(4) Where IOWA system terminals are not operated on a 24-hour-per-day basis, the terminals shall be physically secured when unattended.

8.104(5) The criminal justice agency administrator shall be directly responsible for ensuring that information received from the IOWA system is restricted for the official use of agency personnel, other criminal justice agencies, or other agencies authorized, in writing, by the department of public safety.

8.104(6) Any agency desiring direct access to IOWA system files shall make application to the department. Before authorization is granted, the administrator of the applying agency shall enter into a written agreement with the department of public safety agreeing to abide by all rules, policies and procedures promulgated by the department for system operation, security and discipline. The agreement shall reserve to the department the right to terminate furnishing criminal history or other file information to the applicant agency if abuses are discovered concerning either the security or dissemination requirements of this data.

8.104(7) Any agency which has had its authorization to IOWA system files terminated by the department may appeal the termination to the commissioner of public safety, in accordance with 661—Chapter 10.

661—8.105(80,692) Subpoenas and court orders. Any agency or individual in possession of criminal history data received from the department that is served with a subpoena, court order, request for production or other legal process demanding the production of criminal history data, shall notify the department in writing so that the department has an opportunity to make a timely resistance.

661—8.106 to 8.200 Reserved.

These rules are intended to implement Iowa Code sections 80.9 and 692.14.

DIVISION II
CRIMINAL INTELLIGENCE INFORMATION

661—8.201(692) Definitions.

8.201(1) “*Criminal intelligence file*” means stored information on:

a. An individual who, based upon reasonable grounds, is believed to be involved in the actual or attempted planning, organization, financing, promotion, or commission of criminal acts or having involvement in criminal activities with known or suspected criminal offenders.

b. A group, organization or business which, based on reasonable grounds, is believed to be involved in the actual or attempted planning, organization, financing, promotion, or commission of criminal acts, or of being illegally operated, controlled, financed, promoted, or infiltrated by known or suspected criminal offenders.

“Criminal intelligence file” does not include arrest data, conviction data, correctional data, criminal history data, criminal investigative data, disposition data, or surveillance data as defined in Iowa Code section 692.1.

8.201(2) “*Criminal intelligence system*” means any system of criminal intelligence files maintained and operated by a criminal justice agency in Iowa from which information is shared with any other agency. In addition to the criminal intelligence files, it includes any arrangements, equipment, facilities, and procedures used for the receipt, storage, submission, dissemination, or analysis of criminal intelligence files.

8.201(3) “*Need to know*” is established if criminal intelligence information will assist a recipient in anticipating, investigating, monitoring, or preventing possible criminal activity.

8.201(4) “*Reasonable grounds*” means information that establishes sufficient articulable facts that give a trained law enforcement or criminal investigative agency officer, investigator, or employee a basis to believe that there is a reasonable possibility that an individual or organization is involved in a definable criminal activity or enterprise.

8.201(5) “*Right to know*” is established when a recipient of criminal intelligence information is a peace officer, a criminal justice agency, or a state or federal regulatory agency.

8.201(6) “*Surveillance data*” means information on individuals, pertaining to participation in organizations, groups, meetings or assemblies, where there are no reasonable grounds to suspect involvement or participation in criminal activity by any person.

8.201(7) “*Threat of imminent serious harm*” means a credible impending threat to the safety of a person or property. A threat of imminent serious harm justifies the dissemination of intelligence data for the purpose of protecting a person or property from the threat.

661—8.202(692) Iowa criminal intelligence system (ICIS). The Iowa Criminal Intelligence System (ICIS) is the system of criminal intelligence files maintained and operated by the intelligence bureau of the department of public safety, for the regular interagency exchange of information.

8.202(1) Access. The commissioner of public safety may authorize a peace officer, criminal justice agency, or state or federal regulatory agency to access ICIS provided that the authorized individual or agency follows approved procedures regarding receipt, maintenance, dissemination, submission and security of information, and related training. Authorization must be received in writing to be effective.

8.202(2) Termination of authorization. The commissioner of public safety may terminate authorization for access to ICIS which has been previously approved at any time for good cause. An individual or agency whose authorization to access ICIS has been terminated may appeal the termination in accordance with 661—Chapter 10. Notification of any termination of authorization for access to ICIS shall be provided to all agencies which operate criminal intelligence systems in Iowa.

8.202(3) Reinstatement. Any user whose authorization for access to ICIS has been terminated may apply for the authorization for access to be reinstated, provided that the problem which led to the termination has been corrected.

8.202(4) Applications. To apply for access to ICIS or to obtain further information about ICIS, contact the Intelligence Bureau, Iowa Department of Public Safety, Wallace State Office Building, Des Moines, IA 50319, or by electronic mail via the Internet at intinfo@safe.ia.gov.

8.202(5) Entry of information—restrictions. Information about the political, religious, racial, or social views, associations, activities or sexual orientation, of any individual shall not be entered into ICIS unless such information directly relates to an investigation of criminal conduct or activity and there are reasonable grounds to believe that the subject of the information is, or may be, engaged in criminal conduct or activity.

8.202(6) Entry of information—conformance with applicable law. No information which has been obtained in violation of any applicable federal, state, or local law or ordinance, or these rules, may be entered into ICIS.

8.202(7) Dissemination. Criminal intelligence files from ICIS may be disseminated only to peace officers, criminal justice agencies, or state or federal regulatory agencies. Criminal intelligence files from ICIS may be disseminated only when there is a right to know and a need to know in the performance of a law enforcement activity. Criminal intelligence files from ICIS shall not be disseminated to any user whose authorization to access ICIS has been terminated and not reinstated.

EXCEPTION: Intelligence data may also be disseminated to any agency, organization, or person for an official purpose and in order to protect a person or property from the threat of imminent serious harm as defined in 8.201(7).

8.202(8) *Redissemination.* An agency, organization, or person receiving intelligence data from the department pursuant to Iowa Code chapter 692 as amended by 2003 Iowa Acts, House File 216, may disseminate the intelligence data only if authorized by the agency or peace officer who originally provided the data and the data is for an official purpose in connection with the prescribed duties of the recipient. If the agency, organization, or person receiving the information is not a peace officer, criminal or juvenile justice agency, or state or federal regulatory agency, dissemination is allowed only if such dissemination is to protect a person or property from the threat of imminent serious harm. The department may also place restrictions on the dissemination by the agency, organization, or person receiving the intelligence data. Any agency, organization, or person who disseminates intelligence data pursuant to Iowa Code chapter 692 as amended by 2003 Iowa Acts, House File 216, must maintain a list of the agencies, organizations, and persons receiving the intelligence data and the purpose of the dissemination.

661—8.203(692) Criminal intelligence systems.

8.203(1) *Notification.* Any agency which establishes a criminal intelligence system shall provide written notification of its establishment to the intelligence bureau, Iowa department of public safety, indicating the name, address, and telephone number of the agency operating the system and the identity and title of an employee of the agency responsible for the administration of the system.

8.203(2) *Identification of authorized users.* Any agency operating a criminal intelligence system shall establish policies and procedures for identifying authorized users of the system and for termination of such authorization for cause. Authorized users may be peace officers, criminal justice agencies, or state or federal regulatory agencies.

8.203(3) *Termination of authorization—notification of department.* Any agency operating a criminal intelligence system which terminates the authorization for access to that system of any user for cause shall notify the intelligence bureau of the Iowa department of public safety of the termination, including the identity of the user whose authorization has been terminated and the reasons for the termination.

8.203(4) *Restrictions on information entered.* Information about the political, religious, racial, or social views, associations, activities or sexual orientation of any individual shall not be entered into a criminal intelligence file unless such information directly relates to an investigation of criminal conduct or activity and there are reasonable grounds to believe that the subject of the information is, or may be, engaged in criminal conduct or activity.

8.203(5) *Information entered—conformance with applicable laws.* No information which has been obtained in violation of any applicable federal, state, or local law or ordinance, or these rules, may be entered into criminal intelligence files in any criminal intelligence system in Iowa.

8.203(6) *Dissemination.* Criminal intelligence files may be disseminated only to peace officers, criminal justice agencies, or state or federal regulatory agencies. Criminal intelligence files may be disseminated only when there is a right to know and a need to know in the performance of a law enforcement activity. Criminal intelligence files may not be disseminated from any criminal intelligence system in Iowa to any user whose authorization to access ICIS has been terminated and not reinstated, nor may any criminal intelligence system disseminate criminal intelligence files to any user whose authorization to access that system has been terminated and not reinstated.

EXCEPTION: Intelligence data may also be disseminated to any agency, organization, or person for an official purpose and in order to protect a person or property from the threat of imminent serious harm as defined in subrule 8.201(7).

8.203(7) Redissemination. An agency, organization, or person receiving intelligence data from a criminal or juvenile justice agency, state or federal regulatory agency, or peace officer pursuant to Iowa Code chapter 692 as amended by 2003 Iowa Acts, House File 216, may redisseminate the intelligence data only if authorized by the agency or peace officer who originally provided the data and the data is for an official purpose in connection with the prescribed duties of the recipient. If the agency, organization, or person receiving the data is not a peace officer, criminal or juvenile justice agency, or state or federal regulatory agency, redissemination is allowed only if such redissemination is to protect a person or property from the threat of imminent serious harm. A criminal or juvenile justice agency, state or federal regulatory agency, or peace officer may also place restrictions on the redissemination by the agency, organization, or person receiving the intelligence data. Any agency, organization, or person who redisseminates intelligence data pursuant to Iowa Code chapter 692 as amended by 2003 Iowa Acts, House File 216, must maintain a list of the agencies, organizations, and persons receiving the intelligence data and the purpose of the redissemination.

661—8.204(692) Criminal intelligence file security. The intelligence bureau of the department of public safety, other agencies operating criminal intelligence systems, and recipients of criminal intelligence files from criminal intelligence systems shall adopt administrative, technical, and physical safeguards, including audit trails, to ensure against unauthorized access and against intentional or unintentional damage. These safeguards shall include, but are not limited to, the following:

8.204(1) Records indicating who has been given the information, the reason for release of information, and the date of any dissemination shall be maintained until the information has been purged.

8.204(2) Criminal intelligence files shall be labeled to indicate security level and identities of submitting agencies and submitting individual.

8.204(3) Where appropriate, effective and technologically advanced computer software and hardware designs shall be implemented to prevent unauthorized access.

8.204(4) Any access to criminal intelligence files and computing facilities in which they are stored shall be restricted to authorized personnel.

8.204(5) Criminal intelligence files shall be stored in such a manner that they cannot be modified, destroyed, accessed, purged, or overlaid in any fashion by unauthorized personnel.

8.204(6) Computer systems on which criminal intelligence files are stored shall be programmed to detect, reject, and record any unauthorized attempt to access, modify, or destroy criminal intelligence files or to otherwise penetrate the security safeguards on such a system.

8.204(7) Access to any information required to gain authorized access to criminal intelligence files, including access codes and passwords, shall be restricted to only those personnel authorized to access these files. Agencies shall ensure that criminal intelligence files remain confidential when entering into specific agreements with individuals or organizations who provide computer or programming support to the agency.

8.204(8) Procedures shall be adopted to protect criminal intelligence files from unauthorized access, theft, sabotage, fire, flood, wind, or other natural or man-made disasters.

8.204(9) Procedures shall be adopted which establish the right of the agency receiving or having in its possession criminal intelligence files, to screen and, if appropriate, reject for employment any personnel who would, if hired, have access to criminal intelligence files.

8.204(10) Procedures shall be established which allow the removal or transfer, based on good cause, of any existing employees from positions in which they have access to criminal intelligence files.

8.204(11) Any compromise, or suspected compromise, of information that would allow unauthorized access into criminal intelligence files shall be reported within 24 hours, excluding weekends and holidays, to the intelligence bureau of the department of public safety.

8.204(12) Any compromise, or suspected compromise, of information contained in criminal intelligence files shall be reported within 24 hours, excluding weekends and holidays, to the intelligence bureau of the department of public safety.

661—8.205(692) Review of criminal intelligence files—purge.

8.205(1) The intelligence bureau of the department of public safety, other agencies operating criminal intelligence systems, and recipients of criminal intelligence files from criminal intelligence systems shall regularly review the information in the criminal intelligence files for reclassification or purge. Decisions to retain, reclassify, or purge criminal intelligence files shall:

- a. Ensure the information is current, accurate and relevant to the needs of the agency.
- b. Safeguard individual privacy interests protected by federal and state laws.
- c. Ensure that security classifications remain appropriate.

8.205(2) Information that is misleading, unreliable, or is no longer useful shall be purged or reclassified when necessary within 24 hours of the discovery that it is misleading, unreliable, or is no longer useful. Any person or agency to whom the criminal intelligence file was disseminated shall be notified of the reclassification or purge.

8.205(3) All information shall be reviewed within a five-year period of its submission to ensure compliance with subrule 8.205(1).

8.205(4) All information retained as a result of a review shall reflect the name of the reviewer, date of review, and explanation of decision to retain.

8.205(5) Information that is not retained in the criminal intelligence file after a review shall be destroyed by shredding, mulching, or burning.

661—8.206(692) Prohibition on surveillance data. No surveillance data shall be placed in files or manual or automated data storage systems maintained by any peace officer or criminal justice agency.

661—8.207(692) Subpoenas and court orders. Any agency or individual shall notify the department of public safety in writing within 24 hours, excluding weekends and holidays, of the receipt of any subpoena, court order, request for production, or other legal process demanding the production of a criminal intelligence file, so that the department has an opportunity to make a timely resistance.

661—8.208 to 8.300 Reserved.

These rules are intended to implement Iowa Code sections 692.8, 692.10, and 692.19.

DIVISION III
IOWA SEX OFFENDER REGISTRY

661—8.301(692A) Sex offender registry established. The Iowa sex offender registry, as authorized by Iowa Code chapter 692A, is hereby established in the division of criminal investigation.

661—8.302(692A) Definitions. The following definitions apply to rules 661—8.301(692A) to 661—8.399.

8.302(1) “*Affirmative public notification*” means any form of communication or release undertaken by the department of public safety or other Iowa criminal or juvenile justice agency regarding the identity or characteristics of an individual registrant or registrants. “Affirmative public notification” does not mean release of information to a criminal or juvenile justice agency or agencies nor does it mean release of information about an individual registrant in response to an inquiry about that individual based upon the name and address of the individual, as provided in Iowa Code section 692A.13, subsection 6.

8.302(2) “*Convicted*” or “*conviction*” means a guilty verdict in a criminal case or an adjudication of delinquency in juvenile court for an offense specified in these rules or in Iowa Code chapter 692A as requiring registration with the Iowa sex offender registry. For purposes of these rules, “convicted” or “conviction” includes deferred judgments, deferred sentences, and acquittals by reason of insanity, and adjudications of delinquency of persons whose juvenile court records have been sealed under Iowa Code section 232.150.

8.302(3) “*Criminal or juvenile justice agency*” means an agency or department of any level of government or an entity wholly owned, financed, or controlled by one or more such agencies, or departments, which performs as its principal function the apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal or juvenile offenders.

8.302(4) “*Criminal offense against a minor*” means violations of any of the following sections of the Code of Iowa or equivalent laws of the United States or of any other jurisdiction, if committed against a minor:

a. Enticing a person into a brothel or detaining a person in a brothel by force, intimidation, or false pretenses in violation of Iowa Code section 709.7.

b. Kidnapping of a minor.

c. False imprisonment of a minor.

d. Any indictable offense involving sexual conduct directed toward a minor:

(1) Stalking in violation of Iowa Code section 708.11, subsection 3, paragraph “*b*,” subparagraph (3), if the offense is sexually motivated.

(2) Any violation of the following Iowa Code sections, subsections, and paragraphs: 709.3(2), 709.4(2) “*b*,” 709.4(2) “*c*,” 709.8, 709.12, or 709.14.

(3) Any violation of the following Iowa Code sections with a minor victim: 709.2, 709.3, 709.4, 709.9, 709.15, 709.16, or 726.2; violations of section 698.1 (Iowa Code, 1975), 704.1 (Iowa Code, 1975), or 705.2 (Iowa Code, 1975).

e. Solicitation of a minor to engage in an illegal sex act; any violation of Iowa Code section 709A.6 involving an offense which would warrant registration.

f. Enticing away a child in violation of Iowa Code section 710.10.

g. Use of a minor in a sexual performance: any violation of Iowa Code section 728.12(1).

h. Sexual exploitation of a minor in violation of Iowa Code section 728.12, subsections 2 or 3.

i. Solicitation of a minor to practice prostitution: any violation of Iowa Code section 725.3(2).

j. Incest in violation of Iowa Code section 726.2, when committed against a minor.

k. Dissemination or exhibition of obscene materials to minors:

(1) Any violation of Iowa Code sections 728.2 or 728.15.

(2) Any violation of Iowa Code section 728.4 if delivery is to a minor.

l. Admitting minors to premises where obscene material is exhibited: any violation of Iowa Code section 728.3.

m. An attempt to commit sexual abuse of a minor: any violation of Iowa Code section 709.11; also, violations of section 698.4 (Iowa Code, 1975).

8.302(5) “*Offender*” means a person who is required to register with the Iowa sex offender registry.

8.302(6) “*Other relevant offenses*” means any of the following offenses:

a. Telephone dissemination of obscene materials in violation of Iowa Code section 728.15.

b. Rental or sale of hard-core pornography in violation of Iowa Code section 728.4.

c. Indecent exposure in violation of Iowa Code section 709.9.

d. A criminal offense committed in another jurisdiction which would constitute an indictable offense under paragraphs “*a*” through “*c*” if committed in this state.

8.302(7) “*Registrant*” means a person who is currently registered with the Iowa sex offender registry.

8.302(8) “*Relevant information*” means information including, but not limited to, offender’s name, offender’s address or addresses, a photograph or photographs of the offender, locations frequented by the offender, criminal history information from the registry, physical descriptors of the offender, ages and genders of victims, and other information deemed relevant by the department.

8.302(9) “*Sexual exploitation*” means sexual exploitation by a counselor or therapist in violation of Iowa Code section 709.15.

8.302(10) “*Sexually violent offense*” means any of the following indictable offenses:

- a. Sexual abuse as defined in Iowa Code section 709.1.
- b. Assault with intent to commit sexual abuse in violation of Iowa Code section 709.11.
- c. Sexual misconduct with offenders in violation of Iowa Code section 709.16.
- d. Any of the following offenses, if the offense involves sexual abuse or attempted sexual abuse: murder, attempted murder, kidnapping, burglary, or manslaughter.
- e. A criminal offense committed in another jurisdiction which would constitute an indictable offense under paragraphs “a” through “d” of this subrule if committed in this state.

8.302(11) “*Sexually violent predator*” means a person who has been convicted of an offense under the laws of this state or of another state which would qualify the person as a sexually violent predator under the federal Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14071(a)(3)(B), (C), (D), and (E).

8.302(12) “*Aggravated offense*” means a conviction for any of the following offenses:

- a. Sexual abuse in the first degree in violation of Iowa Code section 709.2.
- b. Sexual abuse in the second degree in violation of Iowa Code section 709.3.
- c. Sexual abuse in the third degree in violation of Iowa Code section 709.4, subsection 1.
- d. Lascivious acts with a child in violation of Iowa Code section 709.8, subsection 1.
- e. Assault with intent to commit sexual abuse in violation of Iowa Code section 709.11.
- f. Burglary in the first degree in violation of Iowa Code section 713.3, subsection 1, paragraph “d.”
- g. Kidnapping, if sexual abuse as defined in Iowa Code section 709.1 is committed during the offense.
- h. Murder, if sexual abuse as defined in Iowa Code section 709.1 is committed during the offense.
- i. Criminal transmission of human immunodeficiency virus in violation of Iowa Code section 709C.1, subsection 1, paragraph “a.”

8.302(13) “*Full-time or part-time*” means a period of time exceeding 14 days or an aggregate period of time exceeding 30 days during any calendar year pursuant to 42 U.S.C. § 14071(a)(3)(F).

661—8.303(692A) Forms and procedures. The following forms and procedures are prescribed for use with the Iowa sex offender registry. Supplies of these forms may be obtained by contacting the Iowa sex offender registry at the division of criminal investigation.

8.303(1) Notification. Form DCI-144, “Notification of Registration Requirement,” which notifies offenders of their duty to register with the Iowa sex offender registry shall be provided to persons identified as being required to register. Failure to provide offenders with Form DCI-144 does not relieve offenders of their duty to register with the Iowa sex offender registry.

8.303(2) Registration.

- a. Form DCI-145, “Sex Offender Registration,” shall be completed by or on behalf of each offender and submitted to the sheriff of the county in which the offender will be residing and to the division of criminal investigation, in order to satisfy the registration requirements of the Iowa sex offender registry. This form shall also be completed by or on behalf of each offender and submitted to the sheriff of the county in which the offender will be a student, be employed, or be engaging in a vocation on a full-time or part-time basis at an institution of higher education, in order to satisfy the registration requirements of 2002 Iowa Acts, House file 2338, section 1.

b. Form DCI-145 shall be used to report changes of residence, telephone number, name of registrant, or change in status as a student, employee, or practicing a vocation at an institution of higher education. A completed copy of Form DCI-145 shall be submitted by the registrant to the sheriff of the county of residence each time the registrant's place of residence, telephone number, or name changes within five days of the change of residence, telephone number, or name, whether within or outside the state of Iowa. A completed copy of Form DCI-145 shall be submitted by the registrant to the sheriff of the county in which the registrant is a student, employee, or practicing a vocation on a full-time or part-time basis at an institution of higher education within five days of the registrant's becoming a student, employee, or engaged in a vocation at the institution of higher education. The original of each completed Form DCI-145 shall be forwarded to the division of criminal investigation by the registering agency within three days of receiving the completed form.

If a registrant moves from one county to another, the registrant shall submit copies of completed Form DCI-145 reporting the change of residence to the sheriff of the prior county of residence and the sheriff of the new county of residence. The sheriff of the new county of residence shall be responsible for transmitting a copy of completed Form DCI-145 to the Iowa sex offender registry.

When the department receives notification that a registrant has changed residence to a location outside of Iowa, the department shall notify the registering state agency in the registrant's new state of residence of the registrant's name, new address, and telephone number. Upon notification of the appropriate out-of-state agency, the department shall remove the registrant from the active registry. The registrant shall not be required to submit annual or quarterly verifications of address while residing outside of Iowa, provided that the registrant is not a student at, employed by, or engaged in a vocation at an institution of higher education in Iowa. The department shall maintain the registrant's file in the event the registrant establishes a residence in Iowa or becomes a student, employee, or practices a vocation at an institution of higher education in Iowa in the future. The department may also maintain the file for any other purpose.

c. Upon initial submission of Form DCI-145, the form shall be accompanied by current photographs and fingerprints of the offender. Current photographs of the registrant shall accompany submission of Form DCI-145 upon each subsequent submission of Form DCI-145 unless the registrant's appearance has not changed significantly in the judgment of the submitting agency.

d. A list of all registrants within a county shall be provided each month by the division of criminal investigation to the county sheriff. Each county sheriff may provide copies of these lists to other law enforcement, criminal justice, and juvenile justice agencies with jurisdiction in the county.

8.303(3) Annual verification. Form DCI-146, "Annual Verification of Address," shall be mailed by the division of criminal investigation to each registrant to the last address known to the registry annually during the month of original registration. Form DCI-146 shall be returned by the registrant to the division of criminal investigation within ten days of receipt. Form DCI-146 shall be mailed to the registrant in an envelope clearly stating that it is to be returned to the division of criminal investigation if the addressee no longer resides at the address indicated and that Iowa law prohibits its being forwarded.

EXCEPTION: Form DCI-146 shall be mailed quarterly by the division of criminal investigation to each registrant who is a sexually violent predator to the last address known to the registry and shall be completed and returned to the division of criminal investigation by the registrant within ten days of receipt.

8.303(4) *Application for determination.* Form DCI-148, “Application for Determination,” shall be completed by a registrant to initiate a request that the department review whether one or more offenses of which the registrant has been convicted require registration with the Iowa sex offender registry, whether the time period during which the registrant is required to register has expired, or whether the registrant is exempt from the placement of information on the sex offender registry Web site. A registrant who submits a completed copy of Form DCI-148 for review shall provide with it copies of any sentencing or adjudicatory orders related to each offense for which a determination of whether registration is required is being requested. The completed application (Form DCI-148) shall specify the exact grounds for the application and shall include a statement of any additional facts or law which the registrant intends to present to the department in support of the application. Failure to submit any of the required information shall constitute grounds for denial of the application. If the application sets forth an issue of fact which cannot be evaluated based upon the record of convictions, sentencing and adjudicatory orders, relevant statutory provisions, and other records provided, and is material to the determination, the commissioner may refer the matter to an administrative law judge or presiding officer for a contested case hearing.

8.303(5) *Decision of determination.* Form DCI-149, “Decision of Determination,” shall be used by the division of criminal investigation to notify a registrant who has submitted a request for determination (Form DCI-148) of the results of that review. A completed Form DCI-149 shall be mailed to any registrant who has filed a completed Form DCI-148 within 90 days of the receipt by the division of criminal investigation of the completed Form DCI-148 and all required supporting documents. A decision of determination shall be signed by the commissioner and shall constitute final agency action for the purposes of Iowa Code chapter 17A.

If an administrative law judge or presiding officer has been assigned to hold a hearing regarding an application for determination, the administrative law judge or presiding officer shall prepare a proposed decision of determination. The proposed decision of determination shall be reviewed by the commissioner who may uphold or modify the proposed decision of determination and shall then sign a final decision of determination. The final decision of determination shall constitute final agency action for the purposes of Iowa Code chapter 17A.

8.303(6) *Request for information.* Form DCI-150, “Request for Registry Information,” shall be used by a member of the public to request information about whether a specific person is registered with the Iowa sex offender registry. A person requesting information about whether a specific individual is registered with the Iowa sex offender registry shall submit a completed copy of Form DCI-150 to a sheriff or police department. A separate form shall be submitted for each person about whom information is being requested.

8.303(7) *Confidential background investigation.* A government agency conducting a confidential background investigation shall submit a completed Form DCI-151 to the division of criminal investigation to request information regarding the individual about whom the background investigation is being conducted.

8.303(8) *Affirmative public notification.* Rescinded IAB 8/4/04, effective 7/15/04.

8.303(9) *Confidential records.* Completed forms filled out pursuant to rules 8.301(692A) through 8.399 are confidential records that may not be released to the public.

EXCEPTION: Completed copies of Form DCI-150 are public records only if public release of a form is authorized by the person completing the form.

661—8.304(692A) Availability of records.

8.304(1) *Release of information to criminal or juvenile justice agencies.* The department may, without restriction, release information regarding any registrant to any criminal or juvenile justice agency, an agency of the state of Iowa, any sex offender registry of another state, or the federal government.

8.304(2) *Sex offender registry Web site.* The department shall place information regarding each registrant on the registry Web site (www.iowasexoffenders.com), except that information regarding any registrant for whom the sole basis of registration is a conviction or convictions for a violation or violations of Iowa Code section 709.4, subsection 2, paragraph “c,” subparagraph (4), and whose offense was committed when the offender was under 20 years of age, shall not be placed on the Web site. Information regarding a registrant placed on the sex offender registry Web site may include any relevant information.

8.304(3) *Release of information by a criminal or juvenile justice agency.* A criminal or juvenile justice agency may provide relevant information from the sex offender registry to the following:

a. A criminal or juvenile justice agency, an agency of the state, any sex offender registry of another state, or the federal government.

b. The general public, including public and private agencies, organizations, public places, public and private schools, child care facilities, religious and youth organizations, neighbors, neighborhood associations, community meetings, and employers. Registry information may be distributed to the public through printed materials, visual or audio press releases, or through a criminal or juvenile justice agency’s Web site.

8.304(4) *List of registrants in county.* Any county sheriff shall provide access to the list of all registrants within the county in which the sheriff has jurisdiction to any person who requests such a list; however, records of persons protected under 18 U.S.C. Section 3521 shall not be disclosed.

8.304(5) *Release of information in response to individual request.* A sheriff or police department that receives a completed Form DCI-150 shall inquire of the division of criminal investigation via the Iowa on-line warrants and articles (IOWA) system as to whether the person about whom information was requested is registered with the Iowa sex offender registry. If the division of criminal investigation notifies the sheriff or police department that the person about whom inquiry is made is not on the registry, the sheriff or police department shall so notify the person who submitted the request. If the division of criminal investigation notifies the sheriff or police department that the subject about whom inquiry was made is a registrant with the Iowa sex offender registry, the sheriff or police department may notify the person making the inquiry that the subject about whom the inquiry was made is a registrant and may provide the requester with the relevant information regarding the registrant.

8.304(6) *Submission of information to the National Sex Offender Registry.* The division shall submit sex offender registry data as required to the National Sex Offender Registry of the Federal Bureau of Investigation.

8.304(7) *Single contact repository.* The division shall perform a search of the sex offender registry on an individual based on a request submitted through the single contact repository established pursuant to Iowa Code section 135C.33. The information provided from the registry shall be limited to whether the identified person is registered.

8.304(8) *No identification of victims.* Any release of information regarding any registrant, other than to criminal or juvenile justice agencies, shall not identify any victim of the registrant.

661—8.305(692A) Expungement of records.

8.305(1) *Expungement upon reversal of conviction.* The division of criminal investigation shall expunge the registration of any registrant if the conviction which forms the basis for the registrant's being required to register is reversed upon receipt of a certified copy of the court order reversing the conviction, providing that the person has been convicted of no other offense which would require registration.

8.305(2) *Expungement upon expiration of registration period.* The division of criminal investigation shall expunge a registrant's registration upon expiration of the period during which the registrant is required to register, provided that the registrant has not subsequently been convicted of an offense that would require registration.

661—8.306 to 8.399 Reserved.

These rules are intended to implement Iowa Code chapter 692A as amended by 2004 Iowa Acts, Senate File 2298, Division XXV.

[Filed June 30, 1975]

[Filed 6/7/79, Notice 5/2/79—published 6/27/79, effective 8/2/79]

[Filed 1/10/86, Notice 11/20/85—published 1/29/86, effective 3/6/86]

[Filed 4/1/88, Notice 9/23/87—published 4/20/88, effective 5/25/88]

[Filed emergency 9/27/94—published 10/26/94, effective 10/1/94]

[Filed emergency 6/29/95—published 7/19/95, effective 7/1/95]

[Filed 7/26/95, Notice 3/1/95—published 8/16/95, effective 10/1/95]

[Filed 10/30/97, Notice 7/2/97—published 11/19/97, effective 1/1/98]

[Filed emergency 6/26/98—published 7/15/98, effective 7/1/98]

[Filed emergency 6/30/99—published 7/28/99, effective 7/1/99]

[Filed emergency 6/29/00—published 7/26/00, effective 7/1/00]

[Filed 2/22/01, Notice 7/26/00—published 3/21/01, effective 5/1/01]

[Filed emergency 4/30/01—published 5/30/01, effective 5/1/01]

[Filed emergency 6/5/02—published 6/26/02, effective 7/1/02]

[Filed emergency 4/24/03—published 5/14/03, effective 5/1/03]

[Filed emergency 7/13/04—published 8/4/04, effective 7/15/04]